

## REMARKS

### I. Status of the Claims

Claims 31-70 are pending. Claims 31, 37, 43, 45, 48, 51, 54, 57, 60, and 63 have been amended. Claims 66-70 are new dependent claims. No new matter has been added. Support for each of the amendments is found in the specification and claims as originally filed, as described in the remarks below. Applicants respectfully request reconsideration in view of the foregoing amendment and in light of these remarks.

### II. Rejections Over Prior Art

Claims 31-33, 37-39, 43-44, 48-50, 54-56, 60-62 have been rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by Spurgeon et al (U.S. Published Patent Application No. 2002/0008751). Applicants respectfully traverse, particularly in view of the amendments made herein and the remarks below.

The invention set forth in the amended claims is a system in which an image is printed directly on a food product. Whereas a printer can be readily adapted to print on transfer sheets, printing on food products such as confectionery, and the like, generally requires conveying the food products past the printhead. Thus, there is an additional apparatus involved in the operation, compared to a system in which transfer sheets are prepared first and the image transferred onto the food product after. Integrating the additional apparatus into a system that is both high resolution and customizable, wherein the user selects the image to be printed on the food product and the image has a resolution greater than 100 dpi, is entirely distinct and non-obvious from a system in which transfer sheets are prepared for later use.

Support for a variety of food products is found in the specification at page 20, lines 9 to 17. It should be readily apparent that many of these food products are not easily transported

past a printhead or affixed with a transfer sheet (including, without limitation, small lentil shaped M&Ms® chocolate and peanut candies). Thus, providing a customizable high resolution image on such food products is both novel and non-obvious.

Turning to the prior art, Spurgeon discloses a system for preparing edible media which are used to transfer an image onto a food product. In the description of the prior art, Spurgeon clearly distinguished systems in which printing is performed directly on a food product.

These systems [the prior art systems] also produce the decorations and images directly onto the food product. Since these food products are produced at the bakery, the decorated food product must then be transported to the event. Many times the decorated food product is damaged in transit. Also, this increases the expense many times in transporting the entire decorated food product. (See para. [0008]).

In fact, throughout the disclosure, Spurgeon maintains the distinction between the “edible media” and the “food product” to which the image is applied:

Once the edible media has traveled through the printer and the image printed thereon with the edible inks, the printed edible media can be removed from the printer. The printed edible media can then be placed on a food product at the point of printing, transported to a separate location for application or even consumed as is. The system is flexible in its capability to print different sizes depending on the food product to be decorated. Also, since the edible media is relatively thin and sturdy, it can be transported separately from the food product to minimize damage to the decorations. The system is also designed to be easily updated and for its settings to be easily adjusted. (See para. [0018]).

Thus, although the media is edible, it is not a “food product.” In view of this, it is believed that Spurgeon does not disclose the printing of high resolution images on individual food products, such as confectionery.

Claims 34-36, 40-42, 45-47, 51-53, 57-59, 63-65 have been rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Spurgeon in view of Young (U.S. Patent No. 6,058,843). However, Young fails to overcome the deficiencies of Spurgeon. In very general terms, Young discloses a movable surface (8) on which a cake can be transported; an image is stored in computer (12) and the image is deposited on the cake by printhead assembly (1) (which may be a high resolution type such as a bubblejet printhead). (See, generally, Young, col. 2, lines 1 through 36). However, the system described in Young is not a consumer-driven customizable system having at least a first computer and second computer as presently claimed, to permit selection by the customer of the appropriate decoration. Young is simply a tool that enables less skilled operators to decorate cakes. Accordingly, applicants respectfully submit that the rejected claims are not obvious over Spurgeon in view of Young.

Moreover, neither Young nor Spurgeon, nor any combination of them, can be adapted to a system that transports food products having curved surfaces past a printhead. Spurgeon is only adapted to accommodate edible transfer sheets which can be fed into a printer. Young discloses a fairly cumbersome carriage system which can accommodate a cake and a bubble-jet printhead. In contrast, the present system contemplates a food product (which may be non planar) held transiently in position proximate a drop-on-demand printhead, which increases the range of customizable food products that can be made according to the inventive system. Dependent claims 66-70 particularly pointing out this feature of a preferred embodiment have been added. Support for the added claims may be found in the specification at page 25, lines 6-18. Applicants submit that these new dependent claims are novel and non-obvious over the prior art for the additional reason that the prior art does not teach a customizable system with

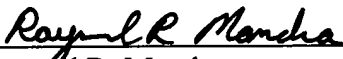
which a customer can select high resolution images to be printed on a wider range of food products, by enabling the product to be held in position as it is printed, as presently claimed.

CONCLUSION

For at least the foregoing reasons, applicants submit that the claims as amended are allowable over the art of record and respectfully request that the application be passed to issue.

Applicants' undersigned attorney may be reached in our New York office by telephone at (212) 218-2100. All correspondence should be directed to our address given below.

Respectfully submitted,

  
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